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DBS Roundtable  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W. -- Suite 500  
Washington, D.C. 20554

Attn: Chris Murphy

Re: **Ensuring that Residents of the State of Hawaii  
Receive the Full Benefits of DBS Service**

The State of Hawaii<sup>1</sup> welcomes the fact that the International Bureau is directing its attention to Direct Broadcast Satellite ("DBS") matters. The Bureau has scheduled two Roundtable Discussions for addressing DBS issues.<sup>2</sup> Accordingly, the State of Hawaii believes that it is appropriate to use this occasion to restate its concerns with the current level of direct-to-the-home ("DTH") satellite service to points in the State of Hawaii. The State of Hawaii seeks to ensure that its residents receive the full benefits of DBS service.

Hawaii Receives Inferior Direct-to-the-Home Satellite Service. Consumers in the State of Hawaii presently receive DTH satellite service only from one company. This company operates in the medium-powered Ku-band frequencies (allocated to the Fixed Satellite Service). There are no other providers of such services and no companies provide service in the high-powered Ku-band frequencies allocated to DBS service. In contrast, at least five companies

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<sup>1</sup> This letter is filed by the State of Hawaii through its Department of Commerce and Consumer Affairs. A division of the Department -- the Cable Television Division -- is the State's cable franchise administrator.

<sup>2</sup> The first roundtable was held on April 18, 1997 and is entitled "DISCO II and the WTO Basic Telecommunications Agreement" (DA 97-683, Report No. IB 97-10). The second roundtable will be held on April 25, 1997 and is entitled "DBS: Streamlining the Process" (DA 97-616, Report No. IN 97-8).

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currently provide some type of DTH service in the mainland U.S. and more are expected to provide DBS service in the mainland U.S. shortly.

Because of the increased capacity available on DBS satellites, there is a greater opportunity to use them to provide a wide variety of specialized services. For example, DBS satellites are being used to download Internet traffic. Residents of the State of Hawaii should have access to multiple DBS providers and the most advanced DBS services.

DBS Operators Are Ignoring Hawaii. Presently, DBS service is offered to the continental United States ("CONUS") from Eastern orbital slots (61.5° W.L. and 101° W.L.). Satellites operating from these Eastern slots do not include the State of Hawaii within their "footprint." The State of Hawaii can be served by satellites: (a) in Western orbital slots (148° W.L., 157° W.L., 166° W.L., and 175° W.L.); (b) with spot beams focused West; and (c) possibly with higher power even from more Eastern orbits.

Up until now, DBS operators have chosen not to provide service to Hawaii by means of any of the options listed above. In response to a query from the State of Hawaii, one such DBS operator stated that it would not provide service to Hawaii until December 2000 at the earliest and another stated that it would not provide service until June 2004.

FCC Rules Require that DBS Operators Serve Hawaii. Pursuant to 47 C.F.R. § 100.53, DBS operators with older authorizations are required to service Hawaii from one or more of their orbital slots once their satellite system is operational, or else forfeit their western DBS orbital slots. DBS operators with newer authorizations (Jan. 19, 1996 or later) are required to serve Hawaii immediately, unless they can convincingly demonstrate that this is not feasible. The Commission's geographic service requirements do not provide for any exceptions that would allow for extensions of time to provide service to Hawaii. The Commission should take every opportunity to assure that the residents of the State of Hawaii promptly receive adequate DBS service. The current deployment schedules are not sufficient.

The Commission Should Prohibit DBS Operators from Providing DBS Service From any New Eastern Orbital Slots Until Adequate Service to Hawaii is Provided. There are already at least five operators that provide some sort of DTH service to the CONUS, but do not provide service to Hawaii. If the Commission permits any more DBS operators to serve only the CONUS, the market for DBS could become saturated and DBS operators would be less likely to utilize Western orbital slots.

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Accordingly, the Commission must carefully review applications for use of foreign orbital slots. Specifically, the Commission should not authorize the use of Canadian or Mexican orbital slots for DBS service within the U.S. unless there are commitments sufficient (in time and number) to serve Hawaii.<sup>3</sup> Without such a commitment, authorization to use these slots could actually delay the introduction of DBS services in Hawaii.

The DBS Roundtable Should Explore the Promotion of an "Offshore States" Policy for DBS Service. The Public Notice for the scheduled April 25, 1997 DBS Roundtable lists a "Full-CONUS" policy as a topic of discussion. This translates into an FCC policy to assure that the CONUS gets all DBS services. What is missing is any mention of an "offshore states" policy that will assure that offshore states such as Hawaii get DBS services and providers in a timely manner.

Sincerely,

THE STATE OF HAWAII

By: 

Herbert E. Marks  
James M. Fink

Its Attorneys

cc: Peter Cowhey (Acting Chief, International Bureau)  
Suzanne Hutchings, Esq. (Satellite Division, International Bureau)  
James Taylor, Esq. (Satellite Division, International Bureau)

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<sup>3</sup> The DTH Satellite Agreement with Mexico, which entered into force on November 11, 1996, specifically requires compliance with Part 100 of the Commission's Rules as a condition for the provision of DTH service via a Mexican satellite. Therefore, any use of a Mexican satellite must comply with Section 100.53. See "Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-the-Home Satellite Services in the United States of America and the United Mexican States," Article V (§§ 4, 5.1) (signed Nov. 8, 1996).